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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Mark Lewis

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INTEL CORPORATION
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

EXAMINER

PHILIPPE, GIMS S

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

07/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/892,553	Applicant(s) LEWIS, MARK	
	Examiner Gims S. Philippe	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. Applicant's request received on March 26, 2008 has been fully considered and entered, but the arguments are not deemed to be persuasive.

Response to Arguments

2. The applicant argues that the examiner has misunderstood the scope of the claimed invention, as well as the teachings of Albanese et al. The applicant notes that the location-identifying information, as described and claimed, is information associated with the subject location. This is not the location of the actual electronic image, file folder, or where the image was scanned, but the location of where the image was photographed, or rather the location of the subject of the image, i.e., where the object captured by the image are located.

The examiner appreciates the explanation provided to the "location-identifying information", however, the examiner did understand what was claimed; and while the applicant may think otherwise, to the examiner, the location where the object/subject was photographed is equivalent to the location where the image was scanned. In order to test the location, the applicant must pose the following question: If there are three images scanned at three different locations by three friends who want to share these three pictures based upon certain sharing rules, does claim 1 meet the need of these three friends? In other words, does it make a difference whether the pictures were

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taken at three different locations of scanned at the three different locations? To the examiner there is no difference between the scanned location and the photographed location. If the applicant understands the explanation given above, paragraphs [0034] and [0065] of Albanese answer the obvious question as well as the claimed limitations. The examiner introduced Albanese in order to reinforce the previously cited art. The citation of an additional prior art is only to prove that such limitations are well known. In fact, to the examiner the proposed combination of Sheridan and Stewart provides the "location-identifying information" (See Stewart col. 5, lines 11-31), as previously noted in the last office action page 4, paragraphs 1 and 2.

The applicant further argues that applicant's claimed invention defines a sharing rule that specifies the recipient based on location-identifying information, where the location-identifying information is associated with a physical location of subjects and objects captured by the image.

The examiner respectfully disagrees with the applicant's interpretation since the sharing rule was clearly shown in Sheridan col. 4, lines 51-67 and col. 5, lines 1-18. The proposed combination of Stewart, Sheridan and Albanese does provide the rule based on the physical location as claimed.

The applicant's arguments are not persuasive. The rejection is repeated below for the sake of completeness.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheridan (US Patent no. 5760917) in view of Stewart et al. (US Patent no. 6389460), and further in view of Albanese et al. (US Patent Application Publication no. 2006/0167985 A1).

Regarding claims 1, 9, 17, 25 and 31, Sheridan discloses the same method for location-based image sharing (See Abstract), comprising defining a sharing rule associated with the one or more recipients with whom images should be shared based on location-identifying information with the images (See col. 4, lines 51-67 and col. 5, lines 1-18), and applying location identifying information associated with an image to the sharing rule to determine the one or more recipients with which the image should be shared (See Sheridan col. 5, lines 10-18, col. 6, lines 13-32, and lines 56-63).

It is noted that while Sheridan applies location identifying information as previously shown in the last office action (See Sheridan col. 5, lines 10-18, col. 6, lines 13-32, and lines 56-63), it is silent about the location identifying information being associated with a physical location of the image subject as newly claimed.

However, Stewart discloses location identifying information being associated with a physical location of the image subject (See Stewart col. 5, lines 11-31).

Therefore, it is considered obvious that one skilled in the art at the time of the invention would recognize the advantage of modifying Sheridan's step of identifying information by incorporating Stewart's teachings wherein the location identifying information being associated with a physical location of the image subject. The motivation for performing such a modification in Sheridan is to efficiently deliver image to a user as taught by Stewart (See Stewart col. 3, lines 55-58 and col. 4, lines 6-14).

It is noted that although the proposed combination of Sheridan and Stewart discloses location identifying information (See Stewart col. 5, lines 11-31), it is silent about the physical location of subjects and objects captured by the image as newly specified in the claims.

However, Albanese discloses a location-based sharing rule specifying the physical location of subjects and objects captured by the image (See Albanese paragraph [0034]).

Therefore, it is considered obvious that one skilled in the art at the time of the invention would recognize the advantage of modifying the proposed combination of Sheridan and Stewart by incorporating Albanese' step of specifying the physical location of subjects and objects captured by the image. The motivation for performing such a modification in Sheridan and Stewart's combination is to enable a user to view a selected picture, which could be a picture of a location visited by his friend and family or one of his pictures with his family and friends.

As per claims 2, 4, 6, 10, 14, 18, 22, 29, and 35 most of the limitations of these claims have been noted in the above rejection of claims. In addition, Sheridan further makes the image automatically available to the determined recipients and automatically sends the digital image once the requested admission is granted (See Sheridan figs. 2-3, and col. 4, lines 51-67 and col. 5, lines 1-41).

As per claims 5, 7, 12-13, 15, 21, 23, 28, 30, 34, and 36, Sheridan further provides identifying information comprising latitude and longitude coordinates, proximity identifying information, and a set of location-identifying information (See col. 6, lines 60-66, col. 8, lines 58-67). The applicant should note that the mailing address referred to in Sheridan col. 8, lines 66-67 will provide the proximity information as well as the latitude and longitude coordinates.

As per claim 33, 20, and 27 Sheridan further converts the location identifying-information into location data using a location database (See col. 8, lines 25-34 and lines 58-67).

As per claims 8, 16, 24 and 37, most of the limitations of these claims have been noted in the above rejection of claims 1 and 31. In addition, Sheridan further defines sharing rule wherein images are shared on a buddy list (See Sheridan's buddy list in fig. 2, and col. 4, lines 51-67 and col. 5, lines 1-18).

As per claim 3, 11, 19, 26 and 32, most of the limitations of these claims have been noted in the above rejection of claims 1, 11, 25. In addition, Sheridan further discloses e-mailing a copy of the image or sending a Web link to the recipients (See Sheridan's col. 5, lines 19-42).

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gims S. Philippe whose telephone number is (571) 272-7336. The examiner can normally be reached on M-F (10:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dastouri Mehrdad can be reached on (571) 272-7418. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gims S Philippe
Primary Examiner
Art Unit 2621

/G. S. P./
/Gims S Philippe/
Primary Examiner, Art Unit 2621